

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1, 3, 5-9 and 11-16 are currently being amended, and new claims 17-19 are added. Support for the new claims is found, *inter alia*, in Figure 1.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-19 are now pending in this application.

The Applicant gratefully acknowledges the indication by Examiner Harris that claims 6-8 and 14 are allowable over the prior art.

Applicant respectfully requests reconsideration of the rejection of claims 1-16 under 35 U.S.C. § 112, 2nd paragraph, as being “indefinite.” Although it is not believed that the original claim language was in any way “indefinite,” Applicants have removed this issue from the present application by rewording independent claim 1 to simply state that the “coolant pump is mounted on said module frame.” This language is believed to obviate any issue of possible indefiniteness. Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Applicant respectfully requests reconsideration of the rejection of claims 1-5, 9-13, 15 and 16 under § 102(b) as being anticipated by the newly cited Bauer et al. reference (hereinafter “Bauer”). For the following reasons, it is respectfully urged that Bauer does not

“identically disclose or describe” the subject matter claimed by independent claim 1 and therefore fails to anticipate claims 1-5, 9-13, 15 or 16 of the present application.

The standard for anticipation requires that a single prior art document “identically disclose or describe” the claimed invention (or that the document inherently disclose the claimed invention). See § 103. Each and every word of the claim must literal “read on” the disclosure of a concrete embodiment identically disclosed or described by the prior art reference. This standard is clearly not satisfied by the Bauer reference.

Bauer’s mere general reference to the possibility that “the heat exchangers are combined to a fixed constructional unit, i.e., either directly connected to one another or fastened on a module carrier (not illustrated), which is then fastened in turn to the body of the vehicle” falls far short of identically describing the numerous structural relationships set forth in claim 1. By Bauer’s own admission, the “module carrier” is not illustrated, and it is not otherwise described in more detail in the reference patent. Thus, there is no way of knowing the shape of the “module carrier,” i.e., whether it is “a module frame which laterally surrounds at least a portion of the heat exchanger including at least one lateral side of the principal heat exchanger,” as called for in claim 1. For this reason alone, the anticipation rejection is shown to be improper.

Moreover, the arrangement of the additional fuel-fired heater 20, 20a in Bauer, i.e., along one lateral side of the radiator water tank 12, would seem to preclude a configuration of the “module carrier” according to Bauer that would satisfy the relationship recited in claim 1 of the present application. The same can be said with respect to the opposite side of the arrangement shown in Bauer, in which a transmission oil cooler 5 is mounted, as well as the inlet 3a and outlet 3b for the charge air cooler 3. It is not at all apparent what form a “module carrier” might take in the context of the combination of heat exchangers and heaters disclosed in Bauer. The specificity of disclosure/description in Bauer falls far short of that needed to support an anticipation rejection.

Furthermore, Bauer only states that *“the heat exchangers* are combined to a fixed constructional unit, i.e., . . . fastened on a module carrier.” The reference neither describes nor

illustrates any *other* components fastened on a module carrier, let alone a module carrier that has the presently claimed structural characteristics. Figure 1 of Bauer does not illustrate whether the coolant pump 6 is fastened to a “module carrier,” since no drawing in Bauer depicts a module carrier.

Finally, claim 1 requires that “the coolant pump is mounted on said module frame and is arranged in such a way as to be positioned laterally beside the principal heat exchanger.” This language requires that the coolant pump be located *to one lateral side* of the principle heat exchanger, as clearly shown in the figures of the present application. On the other hand, in Bauer, the coolant pump 6 is clearly located *beneath* the radiator and *not* to one lateral side of it.

Therefore, Applicant respectfully submits that independent claim 1 (as well as all of the remaining dependent claims) is not anticipated by Bauer. Consequently, withdrawal of the stated rejection is believed to be in order and is courteously solicited.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if for a telephone interview if she is not prepared to allow the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date June 15, 2007

By



FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5414
Facsimile: (202) 672-5399

Richard L. Schwaab
Attorney for Applicant
Registration No. 25,479